

Subject: Direct and Equitable

POLICY: Direct and equitable access to all federal funds will be provided to local educational agencies, community-based organizations of demonstrated effectiveness, volunteer literacy organizations of demonstrated effectiveness, institutions of higher education, public or private nonprofit agencies, libraries, and public housing authorities according to Section 203 (C) (5) of the Workforce Investment Act of 1998.

INFORMATION/RATIONALE: In order to provide direct and equitable access to all adult education federal funds provided under the Workforce Investment Act of 1998, the Idaho State Department of Education/Office of Adult Education shall award funds on the basis of competitive applications submitted by eligible recipients. Direct and equitable access includes: (1) the right to submit applications directly to the state education agency for those funds; and (2) use by the state agency of a process for selecting recipients of those funds that gives each agency, institution, and organization a fair chance of receiving an award.

ELIGIBLE PROVIDERS:

- Local Education Agency
- Community-based Organization (CBO) of demonstrated effectiveness
- Volunteer Literacy Organization of demonstrated effectiveness
- Institution of Higher Education
- Public or Private Nonprofit Agency
- Charter School
- Library
- Public Housing Authority
- Faith-based Organization (FBO) that meets all statutory and regulatory requirements of the program and does not discriminate against beneficiaries on the basis of religion
- Nonprofit institution that is not described above and has the ability to provide literacy services to adults and families
- Correctional Institution

REGULATIONS ON THE PARTICIPATION OF FAITH-BASED AND COMMUNITY ORGANIZATIONS IN DEPARTMENT PROGRAMS

US Department of Education www.ed.gov

GRANTS & CONTRACTS

Regulations on the Participation of Faith-Based and Community Organizations in Department Programs

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1. Introduction
These final regulations implement Executive branch policy that, within the framework of constitutional church-state guidelines, religiously affiliated (or "faith-based") organizations should be able to compete on an equal footing with other organizations for funding by the U.S. Department of Education. The full text of the Federal Register notice announcing these final regulations is available at <http://www.ed.gov/legislation/FedRegister/finrule/2004-2/060404a.html>. The full text of the regulations amended by this Federal Register notice, which apply to all entities, including faith-based organizations, that receive grants from the Department of Education can be found in 34 C.F.R. parts 74-99, available at <http://www.ed.gov/policy/fund/reg/edgarReg/edgar.html>.

2. §74.44 Procurement procedures.

TITLE 34 -- EDUCATION
SUBTITLE A -- OFFICE OF THE SECRETARY, DEPARTMENT OF EDUCATION
PART 74 -- ADMINISTRATION OF GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION,
HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS
SUBPART C -- POST-AWARD REQUIREMENTS
PROCUREMENT STANDARDS

34 CFR 74.44

§ 74.44 Procurement procedures.

*****[(a) - (e) intentionally omitted]*****

(f)(1)(i) A faith-based organization is eligible to contract with recipients on the same basis as any other private organization, with respect to contracts for which such other organizations are eligible.

(ii) In the selection of goods and services providers, recipients shall not discriminate for or against a private organization on the basis of the organization's religious character or affiliation.

(2) The provisions of § 75.532 and 76.532 applicable to grantees and subgrantees apply to a faith-based organization that contracts with a recipient, unless the faith-based organization is selected as a result of the genuine and independent private choices of individual beneficiaries of the program and provided the organization otherwise satisfies the requirements of the program.

(3) A private organization that engages in inherently religious activities, such as religious worship, instruction, or proselytization, must offer those services separately in time or location from any programs or services supported by a contract with a recipient, and participation in any such inherently religious activities by beneficiaries of the programs supported by the contract must be voluntary, unless the organization is selected as a result of the genuine and independent private choices of individual beneficiaries of the program and provided the organization otherwise satisfies the requirements of the program.

(4)(i) A faith-based organization that contracts with a recipient may retain its independence, autonomy, right of expression, religious character, and authority over its governance.

(ii) A faith-based organization may, among other things --

(A) Retain religious terms in its name;

(B) Continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs;

(C) Use its facilities to provide services without removing or altering religious art, icons, scriptures, or other symbols from these facilities;

(D) Select its board members and otherwise govern itself on a religious basis; and

(E) Include religious references in its mission statement and other chartering or governing documents.

(5) A private organization that contracts with a recipient shall not discriminate against a beneficiary or prospective beneficiary in the provision of program services on the basis of religion or religious belief.

(6) A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, in section 702(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000e-1, is not forfeited when the organization contracts with a recipient.

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3. §75.52 Eligibility of faith-based organizations for a grant.

TITLE 34 -- EDUCATION
SUBTITLE A -- OFFICE OF THE SECRETARY, DEPARTMENT OF EDUCATION
PART 75 -- DIRECT GRANT PROGRAMS
SUBPART A -- GENERAL
ELIGIBILITY FOR A GRANT

34 CFR 75.52

§ 75.52 Eligibility of faith-based organizations for a grant.

(a)(1) A faith-based organization is eligible to apply for and to receive a grant under a program of the Department on the same basis as any other private organization, with respect to programs for which such other organizations are eligible.

(2) In the selection of grantees, the Department shall not discriminate for or against a private organization on the basis of the organization's religious character or affiliation.

(b) The provisions of Sec. 75.532 apply to a faith-based organization that receives a grant under a program of the Department.

(c) A private organization that engages in inherently religious activities, such as religious worship, instruction, or proselytization, must offer those services separately in time or location from any programs or services supported by a grant from the Department, and participation in any such inherently religious activities by beneficiaries of the programs supported by the grant must be voluntary.

(d)(1) A faith-based organization that applies for or receives a grant under a program of the Department may retain its independence, autonomy, right of expression, religious character, and authority over its governance.

(2) A faith-based organization may, among other things --

(i) Retain religious terms in its name;

(ii) Continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs;

(iii) Use its facilities to provide services without removing or altering religious art, icons, scriptures, or other

symbols from these facilities;

(iv) Select its board members and otherwise govern itself on a religious basis; and

(v) Include religious references in its mission statement and other chartering or governing documents.

(e) A private organization that receives a grant under a program of the Department shall not discriminate against a beneficiary or prospective beneficiary in the provision of program services on the basis of religion or religious belief.

(f) If a grantee contributes its own funds in excess of those funds required by a matching or grant agreement to supplement federally funded activities, the grantee has the option to segregate those additional funds or commingle them with the funds required by the matching requirements or grant agreement. However, if the additional funds are commingled, this section applies to all of the commingled funds.

(g) A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, in section 702(a) of the Civil Rights Act of 1964, *42 U.S.C. 2000e-1*, is not forfeited when the organization receives financial assistance from the Department.

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4. §75.532 Use of funds for religion prohibited.

TITLE 34 -- EDUCATION
SUBTITLE A -- OFFICE OF THE SECRETARY, DEPARTMENT OF EDUCATION
PART 75 -- DIRECT GRANT PROGRAMS
SUBPART E -- WHAT CONDITIONS MUST BE MET BY A GRANTEE?
ALLOWABLE COSTS

34 CFR 75.532

§ 75.532 Use of funds for religion prohibited.

(a) No grantee may use its grant to pay for any of the following:

(1) Religious worship, instruction, or proselytization.

(2) Equipment or supplies to be used for any of the activities specified in paragraph (a)(1) of this section.

(b) [Reserved]

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5. §76.52 Eligibility of faith-based organizations for a subgrant.

TITLE 34 -- EDUCATION
SUBTITLE A -- OFFICE OF THE SECRETARY, DEPARTMENT OF EDUCATION
PART 76 -- STATE-ADMINISTERED PROGRAMS
SUBPART A -- GENERAL
ELIGIBILITY FOR A GRANT OR SUBGRANT

34 CFR 76.52

§ 76.52 Eligibility of faith-based organizations for a subgrant.

(a)(1) A faith-based organization is eligible to apply for and to receive a subgrant under a program of the Department on the same basis as any other private organization, with respect to programs for which such other

organizations are eligible.

(2) In the selection of subgrantees, States shall not discriminate for or against a private organization on the basis of the organization's religious character or affiliation.

(b) The provisions of Sec. 76.532 apply to a faith-based organization that receives a subgrant from a State under a State-administered program of the Department.

(c) A private organization that engages in inherently religious activities, such as religious worship, instruction, or proselytization, must offer those services separately in time or location from any programs or services supported by a subgrant from a State under a State-administered program of the Department, and participation in any such inherently religious activities by beneficiaries of the programs supported by the subgrant must be voluntary.

(d)(1) A faith-based organization that applies for or receives a subgrant from a State under a State-administered program of the Department may retain its independence, autonomy, right of expression, religious character, and authority over its governance.

(2) A faith-based organization may, among other things --

(i) Retain religious terms in its name;

(ii) Continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs;

(iii) Use its facilities to provide services without removing or altering religious art, icons, scriptures, or other symbols from these facilities;

(iv) Select its board members and otherwise govern itself on a religious basis; and

(v) Include religious references in its mission statement and other chartering or governing documents.

(e) A private organization that receives a subgrant from a State under a State-administered program of the Department shall not discriminate against a beneficiary or prospective beneficiary in the provision of program services on the basis of religion or religious belief.

(f) If a State or subgrantee contributes its own funds in excess of those funds required by a matching or grant agreement to supplement Federally funded activities, the State or subgrantee has the option to segregate those additional funds or commingle them with the funds required by the matching requirements or grant agreement. However, if the additional funds are commingled, this section applies to all of the commingled funds.

(g) A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, in section 702(a) of the Civil Rights Act of 1964, *42 U.S.C. 2000e-1*, is not forfeited when the organization receives financial assistance from the Department.

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6. §76.532 Use of funds for religion prohibited.

TITLE 34 -- EDUCATION
SUBTITLE A -- OFFICE OF THE SECRETARY, DEPARTMENT OF EDUCATION
PART 76 -- STATE-ADMINISTERED PROGRAMS
SUBPART F -- WHAT CONDITIONS MUST BE MET BY THE STATE AND ITS SUBGRANTEES?
ALLOWABLE COSTS

34 CFR 76.532

§ 76.532 Use of funds for religion prohibited.

(a) No State or subgrantee may use its grant or subgrant to pay for any of the following:

(1) Religious worship, instruction, or proselytization.

(2) Equipment or supplies to be used for any of the activities specified in paragraph (a)(1) of this section.

(b) [Reserved]

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7. §80.36 Procurement.

TITLE 34 -- EDUCATION
SUBTITLE A -- OFFICE OF THE SECRETARY, DEPARTMENT OF EDUCATION
PART 80 -- UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE
AND LOCAL GOVERNMENTS
SUBPART C -- POST-AWARD REQUIREMENTS
CHANGES, PROPERTY, AND SUBAWARDS

34 CFR 80.36

§ 80.36 Procurement.

*****[(a) - (i) intentionally omitted]*****

(j) Contracting with faith-based organizations. (1)(i) A faith-based organization is eligible to contract with grantees and subgrantees, including States, on the same basis as any other private organization, with respect to contracts for which such other organizations are eligible.

(ii) In the selection of goods and services providers, grantees and subgrantees, including States, shall not discriminate for or against a private organization on the basis of the organization's religious character or affiliation.

(2) The provisions of § 75.532 and 76.532 applicable to grantees and subgrantees apply to a faith-based organization that contracts with a grantee or subgrantee, including a State, unless the faith-based organization is selected as a result of the genuine and independent private choices of individual beneficiaries of the program and provided the organization otherwise satisfies the requirements of the program.

(3) A private organization that engages in inherently religious activities, such as religious worship, instruction, or proselytization, must offer those services separately in time or location from any programs or services supported by a contract with a grantee or subgrantee, including a State, and participation in any such inherently religious activities by beneficiaries of the programs supported by the contract must be voluntary, unless the organization is selected as a result of the genuine and independent private choices of individual beneficiaries of the program and provided the organization otherwise satisfies the requirements of the program.

(4)(i) A faith-based organization that contracts with a grantee or subgrantee, including a State, may retain its independence, autonomy, right of expression, religious character, and authority over its governance.

(ii) A faith-based organization may, among other things --

(A) Retain religious terms in its name;

(B) Continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs;

(C) Use its facilities to provide services without removing or altering religious art, icons, scriptures, or other symbols from these facilities;

(D) Select its board members and otherwise govern itself on a religious basis; and

(E) Include religious references in its mission statement and other chartering or governing documents.

(5) A private organization that contracts with a grantee or subgrantee, including a State, shall not discriminate against a beneficiary or prospective beneficiary in the provision of program services on the basis of religion or religious belief.

(6) A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, in section 702(a) of the Civil Rights Act of 1964, *42 U.S.C. 2000e-1*, is not forfeited when the organization contracts with a grantee or subgrantee.

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